

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA
CLARKSBURG DIVISION**

THE OHIO VALLEY COAL COMPANY,
56854 Pleasant Ridge Road
Alledonia, OH 43902

Plaintiff,

v.

UNITED MINE WORKERS OF AMERICA,
INTERNATIONAL UNION
18354 Quantico Gateway Drive
Triangle, Virginia 22172

and

UNITED MINE WORKERS OF
AMERICA, District 31,
310 Gaston Avenue
Fairmont, WV 26554

Defendants.

Civil Action No. 1:17-cv-00213 (IMK)

JOINT STIPULATED RECORD

Plaintiff and Counterclaim Defendant The Ohio Valley Coal Company (“Ohio Valley Coal” or “TOVCC”), Defendant and Counterclaim Plaintiff International Union, United Mine Workers of America, and Defendant United Mine Workers of America, District 31, by and through their undersigned counsel, hereby file this Joint Stipulated Record as part of the record in the parties’ cross motions for summary judgment as follows:

1. 2016 National Bituminous Coal Wage Agreement (Exhibit A);
2. Grievance No. 17-31-04 (Exhibit B);
3. Memorandum of Understanding (Exhibit C);
4. Slurry Disposal Agreement (Exhibit D);

5. Transcript of September 20, 2017 hearing before Arbitrator Bowers (Exhibit E);
6. Ohio Valley Coal September 20, 2017 Hearing Exhibits (Exhibit F):
 - a. Employer Hearing Exhibit 1.A, Grievance No. 17-31-04 (*see* Exhibit B);
 - b. Employer Hearing Exhibit 1.B, Aerial Photos of Powhatan No. 6 Mine Surface (Exhibit F.1);
 - c. Employer Hearing Exhibit 1.C, Timeline—Full Production to Permanent Closure (Exhibit F.2);
 - d. Employer Hearing Exhibit 1.D, List of Valuables Recovered from Mine (Exhibit F.3);
 - e. Employer Hearing Exhibit 1.E, Comparison, Work Jurisdiction Issues (Exhibit F.4);
 - f. Employer Hearing Exhibit 1.F and Union Hearing Exhibit 1, Pages from Mine Data Retrieval System (Exhibit F.5);
 - g. Employer Hearing Exhibit 1.G, UMWA Membership and Production Statistics (Exhibit F.6);
 - h. Employer Hearing Exhibit 1.H, Paper “Three Phases of a LWMS” (Exhibit F.7);
 - i. Employer Hearing Exhibit 1.I, Two Past Decisions Issued by Arbitrator Bowers (Exhibit F.8(a) and (b));
 - j. Employer Hearing Exhibit 1.J, UMWA Disclosure Documents (Exhibit F.9).
7. Ohio Valley Coal September 20, 2017 Opening Statement for Employer (Exhibit G);
8. UMWA Dist. 31, Local Union 1810 September 20, 2017 Opening Statement for Union (Exhibit H);
9. UMWA Dist. 31, Local Union 1810 September 20, 2017 Procedural Argument/Opening Statement for Union (Exhibit I);
10. Ohio Valley Coal September 20, 2017 Closing Statement/Argument for Employer (Exhibit J);
11. September 20, 2017 Union Post Hearing Brief/Closing Statement (Exhibit K);
12. Transcript of January 24, 2018 hearing before Arbitrator Bowers (Exhibit L);

13. Ohio Valley Coal January 24, 2018 Hearing Exhibits (Exhibit M);
 - a. Employer Hearing Exhibit A, NBCWA of 2016 as Modified by MOU (*see* Exhibit C);
 - b. Employer Hearing Exhibit B, Murray Energy Corporation Listings and Organization Chart (Exhibit M.1);
 - c. Employer Hearing Exhibit C, Two Past Decisions Issued by Arbitrator Bowers (*see* Exhibit F.8(a) and (b));
 - d. Employer Hearing Exhibit D, Complaint to Vacate Arbitration Award (*see* Doc No. 1);
 - e. Employer Hearing Exhibit E, *KenAmerican Resources, Inc., v. Internat'l Union, UMWA*, 321 U.S. App. D.C. 310, 99 F.3d 1161 (D.C. Cir. 1996) (Exhibit M.2);
 - f. Employer Hearing Exhibit F, *A.T. Massey Coal Co., Inc., v. Internat'l Union*, 799 F.2d 142 (4th Cir. 1986) (Exhibit M.3);
 - g. Employer Hearing Exhibit G, Transcript of September 20, 2017 hearing before Arbitrator Bowers (*see* Exhibit E);
 - h. Employer Hearing Exhibit H, Slurry Disposal Agreement (*see* Exhibit D);
 - i. Employer Hearing Exhibit I, *North American Coal Corp., v. UMWA, Dist. 6, Local Union 1941*, Decision 78-24 (Exhibit M.4);
 - j. Employer Hearing Exhibit J, Time Sheets for Grievants (Exhibit M.5).
14. Ohio Valley Coal January 24, 2018 Opening Statement for Employer (Exhibit N);
15. UMWA Dist. 31, Local Union 1810 January 24, 2018 Opening Statement for Union (Exhibit O);
16. Ohio Valley Coal January 24, 2018 Closing Statement/Argument for Employer (Exhibit P);
17. January 24, 2018 Union Post Hearing Brief/Closing Statement (Exhibit Q);
18. Arbitrator Bowers' October 12, 2017 award on arbitrability (*see* Doc No.12-1 and 13-1);
19. Arbitrator Bowers' February 20, 2018 merits award (*see* Doc No. 12-2 and 13-3);
20. Email correspondence between the parties and their representatives, dated January 5, 2018 through January 19, 2018 (Exhibit R);

21. Arbitration Decisions to be Relied Upon by the Parties;¹
- a. *AMAX Coal Co. v. UMWA, Dist. 11, Local Union 1015*; Case No. 11-84-55A
 - b. *Arch of West Virginia Inc. Hinchman Mine v. UMWA, Dist. 17, Local Union 6712*; Arb No. 88-17-89-500
 - c. *Beth Energy Corp. v. UMWA, Dist. 30, Local Union 5741*; Arb. No. 84-30-86-229
 - d. *Bethlehem Mines Corporation, Mine No. 58 v. UMWA, Dist. 5, Local Union 2874*; Decision 78-2
 - e. *Buffalo Mining Co. v. UMWA, Dist. 17, Local Union 8454*; Arb. No. 81-17-82-157
 - f. *Cannelton Industries v. UMWA, Dist. 17, Local Union 8843*; Case No. 84-17-87-1022
 - g. *Chevron Mining Inc. McKinley Mine v. UMWA, Dist. 22, Local Union 1332*; Case No. 011AB24
 - h. *Clinchfield Coal Co. v. UMWA, Dist. 28, Local 1477*; Case No. 81-78-83-220
 - i. *Colony Bay Coal Co. v. UMWA, Dist. 17, Local Union 9177*; Case No. 02-17-04-124
 - j. *Colony Bay Coal Co. v. UMWA, Dist. 17, Local Union 9177*; Case No. 02-17-04-143
 - k. *Consolidated Coal Co., Burning Star No. 4 Mine v. UMWA, Dist. 12, Local Union 1825*; Case No. 98-12-00-055
 - l. *Consolidated Coal Co., Four States Mine No. 20 v. UMWA, Dist. 31, Local Union 9909*; Case No. 84-31-87-302
 - m. *Consolidated Coal Co. Wheeler Creek Mine v. UMWA, Dist. 12, Local Union 2414*; Case No. 88-12-88-124

¹ Paragraph 22 lists all the arbitration decision cited by the parties in their submission to Arbitrator Bowers. To avoid burdening the record, the parties will only submit copies of any Arbitration awards or other unpublished authorities upon which still they rely when they file their respective briefs and will provide copies of any others the Court finds of interest upon request.

- n. *Consolidated Coal Co. Wheeler Creek Mine v. UMWA, Local Union 2414*; Case No. 88-12-88-0106
- o. *Consolidation Coal Co. Ireland Mine v. UMWA*; Decision No. 78-49
- p. *Island Creek Coal Company, Hamilton No. 1 Mine v. UMWA*; Case No. 93-23-94-01
- q. *Jim Walter Resources Inc. No. 3 Mine v. UMWA, Dist. 20, Local Union 1928*; Grievance No. 1-04 & Grievance No. 2-04
- r. *Muskingum Mining Co. v. UMWA, Local Union 1818*; Case No. 88-6-88-67
- s. *Old Ben Coal Co. v. UMWA, Dist. 12, Local Union 1487*; Case No. 12-80-777
- t. *Old Ben Coal Co. v. UMWA, Dist. 12, Local Union 2309*; Case No. 81-12-84-1360
- u. *Peabody Coal Co. Gibraltar Mine v. UMWA, Dist. 12, Local Union 1992*; Case No. 02-12-04-023-PCC
- v. *Peabody Coal Company Randolph Preparation Plant v. UMWA, Dist. 12, Local Union 1148*; Case No. 98-12-00-65
- w. *Peabody Coal Company Sinclair Surface Mine v. UMWA*; Arb. No. 88-23-90-10-PCC
- x. *Seneca Coal Company v. International Union UMWA*; Grievance No. 2011-12
- y. *TOVCC v. UMWA Dist. 6, Local Union 1810*; Case No. 88-6-88-151
- z. *TOVCC v. UMWA Local Union 1810*; Arb. No. 81-6-82-477
- aa. *TOVCC v. UMWA Local Union 1810*; Case No. 88-6-93-997
- bb. *UMWA v. Consolidated Coal Co.*; Case No. CAS 3-93-6-96-99
- cc. *UMWA v. Eastern Associated Coal*; Case No. 07-17-07-004
- dd. *UMWA v. Peabody Coal Company Sinclair Mine*; Arb. No. 88-23-89-27 PCC
- ee. *UMWA, Dist. 6, Div. 3, Local Union 1304 v. Youghiogheny & Ohio Coal Co.*; Case No. 84-6-87-748

- ff. *UMWA, Dist. 6, Local Union 1360 v. Consolidated Coal Co., Franklin No. 125 Mine*; Case No. 84-6-87-747
- gg. *UMWA Dist. 6, Local Union 1785 v. Quarto Mining Co.*; Case No. 84-6-86-404
- hh. *UMWA Dist. 6, Local Union 1810 v. TOVCC*; Case No. 88-6-88-63
- ii. *UMWA Dist. 6, Local Union 1810 v. TOVCC*; Case No. 88-6-88-117
- jj. *UMWA Dist. 12, Local Union 1148 v. Peabody Coal Co., River King Mine # 6*; Case No. 93-12-94-33
- kk. *UMWA, Dist. 12, Local Union 1825 v. Consolidated Coal Co., Burning Star No. 4 Mine*; Decision No. 78-52
- ll. *UMWA, Dist. 12, Local Union 1826 v. Consolidated Coal Co., Central Shop*; Decision No. 78-59
- mm. *UMWA, Dist. 12, Local Union 2309 v. Old Ben Coal Co.*; Case No. 84-12-87-1059
- nn. *UMWA, Dist. 12, Local Union 2412 v. Consolidated Coal Co. Wheeler Creek Mine*; Case No. 88-12-88-83
- oo. *UMWA, Dist. 17, Local Union 2542 v. Cedar Coal Co.*; Decision No. 78-51
- pp. *UMWA Dist. 17, Local Union 5850 v. Amherst Coal Co.*; Case No. 81-17-84-A11
- qq. *UMWA, Dist. 17, Local Union 8843 v. Cannelton Industries, Inc.*; Arb. No. 84-17-KD 8
- rr. *UMWA, Dist. 17, Local Union 9177 v. Eastern Associated Coal Co.*; Arb. No. 84-17-86-299
- ss. *UMWA, Dist. 23, Local Union 2395 v. the Pittsburgh & Midway Coal Mining Co.*; Case No. 84-238
- tt. *UMWA, Dist. 23, Local Union 8941 v. Peabody Coal Co. Ken Mine*; Case No. 93-12-98-05PCC
- uu. *Walker-Fayette Coal Company, Carona Mine v. UMWA*; Decision No. 78-8

ww. *Western Slope Carbon Inc. v. UMWA, Dist. 15, Local Union 6417*; CALS
File No. 831AA-62

Dated: June 15, 2018

International Union, United Mine Workers of America and Its District 31 The Ohio Valley Coal Company

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